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Conflict of Criminal Laws, by Edward S. Stimson

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BOOK REVIEWS

CONFLICT OF CRIMINAL LAWS. By Edward S. Stimson. Chicago. The Foundation Press, Inc., 1936.

The central problem with which the author seeks to deal is "the problem of what law should be applied to determine the legal effect of a person's conduct when he does an act in one state which produces harmful effects in another." The solution which the author supports is that the law which governs is the law of the state in which the accused was when he did the act in question, rather than the law of the place where the effect was produced. The author states that the decisions on the question are fairly evenly divided, but with the weight of authority in favor of the view which he adopts. In support of his position, fourteen different crimes are considered, with an analysis of the problem as it is presented in each crime.

There is a collection of decisions relating to jurisdiction over property, with an interesting discussion of forfeitures or proceedings in rem. The case of *Goldsmith-Grant Company v. United States*¹ is criticized adversely. The reviewer, however, does not find the criticism adequate to meet the great weight of authority in accord with the decision. A final section deals with jurisdiction of criminal cases in territorial waters. In this section, as in other sections of the book, there are extensive citations of cases and of authorities on international law.

The value of the book lies in its collection of cases on the very interesting problems which are presented by the conflicts of the criminal laws of different sovereignties. The author draws no distinction between the terms "extradition" and "rendition." The distinction between problems of venue, or possible places of trial within the same jurisdiction, as distinguished from the problems raised by differences in jurisdictions or sovereignties, is stated but is not fully discussed. There is no discussion of the proposed and the accomplished reciprocal legislation by which miscarriages of justice because of the intervention of state lines are to be prevented. There is no analysis of the criminal act, and in fact no attempt at a definition of the word "act." Such an analysis and definition would seem to be fundamental in the development of the author's thesis. The many meanings of the word "jurisdiction" itself are not distinguished. In fact, the impression of excessive brevity arises repeatedly. The author's discussion is frequently stimulating and interesting, but it is apparently not directed to extensive assistance of courts and lawyers dealing with problems of conflicting criminal laws as they arise in the day-to-day administration of criminal justice.

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Blumenthal v. Feintuch (1936), 273 N. Y. S. 660; Blumenthal v. Weikman (1936), 277 N. Y. S. 895, affirmed without passing on the question of secondary boycott (1936), 279 N. Y. S. 966; Gertz v. Randau (1937), 295 N. Y. S. 871. Apparently the determination will depend upon the relative necessity of picketing an outsider in order to inform the public of the contentions. Whether other states will conform to this analysis is conjectural.

¹ 133 U. S. 1, 10 S. Ct. 244, 33 L. Ed. 555 (1889).